FILED
SEP 23 1980
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF DONNA JEAN MARKS and TED EMANUEL MARKS

Upon the Petition of

DONNA JEAN MARKS, n/k/a
DONNA JEAN MONTEI,

Petitioner-Appellee,

and Concerning

TED EMANUEL MARKS,

Respondent-Appellant.

Filed September 23, 1980

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Appeal from Polk District Court - M. J. V. Hayden, Judge.

Respondent-father appeals trial court's order modifying petitioner-mother's visitation rights with their son. AFFIRMED.

Joseph Z. Marks of Marks, Marks & Marks, Urbandale, Iowa, for respondent-appellant.

Gary B. Garrison of Des Moines, Iowa, for petitioner-appellee.

Heard by Oxberger, C.J., and Donielson, Snell and Carter, JJ. Johnson, J., takes no part.

Respondent-father appeals trial court's order modifying petitioner-mother's visitation rights with their son. Respondent claims petitioner did not show sufficiently changed circumstances to justify increasing her visitation rights and that the child's best interests are not furthered by doing so. Our review is de novo. Iowa R. App. P. 4. We affirm.

I. The parties' marriage was dissolved in 1972, the decree providing for joint custody of their son, Danny. After petitioner moved to Michigan, the decree was modified in 1975 to grant sole custody to respondent and visitation of one weekend per month and two weeks in the summer to petitioner. In 1978 this court affirmed that modification on appeal.

On May 9, 1979, petitioner filed the present action to modify and expand her visitation rights. After a hearing on June 1, 1979, trial court filed an order increasing her visitation to one month in the summer and a week at Christmas, Thanksgiving and Easter or spring vacation. The weekend visitations were left unchanged.

II. Petitioner alleged the following changed circumstances to justify her petition to modify visitation: 1) the child was more than four years older than at the time of the original visitation decree (he was twelve years old in July, 1979); 2) the child is now better able to travel; and 3) increased difficulties for petitioner to travel from Michigan to Iowa in the winter months. At the hearing, petitioner testified that in the past Danny got along well with her neighbors' children in Grand Haven, Michigan and would do the same at her new home in Kalamazoo, Michigan. She further testified that there are many summertime activities for boys of Danny's age in Kalamazoo. Both petitioner and her second husband testified concerning the difficulties involved in arranging the weekend visitations. The trip from Kalamazoo to Des Moines (where respondent and Danny reside) takes about eight to ten hours, being a 500-mile drive. Petitioner's second husband is an attorney and testified as to his difficulty in arranging to leave early on weekends for the trips to Iowa. He also said he gets along very well with Danny and that they and petitioner do many family activities together during visitation periods.

In Donovan v. Donovan, 212 N.W.2d 451, 453 (Iowa 1973), the court said: "To justify a change of visitation rights the petitioner must show there has been a change of circumstances since the divorce decree. However, as to modification of visitation

rights as compared to child custody changes the general rule is that a much less extensive change of circumstances need be shown in visitation right cases (citations omitted)." See also In re Marriage of Glass, 213 N.W.2d 668, 670 (Iowa 1973). In light of this lesser burden of proof required in visitation cases, we think the circumstances asserted here by petitioner are sufficient to justify the modification and enlargement of her visitation rights.

We also think the trial court's modification order furthers Danny's best interests which, of course, is our paramount consideration. Iowa R. App. P. 14(f)(15). Although respondent claims modification was sought merely to suit petitioner's convenience, we think the order is desirable because it gives Danny more time with his mother without unduly interfering with his activities in Des Moines. We do not disturb the trial court's order.

AFFIRMED.